

## PART IV

### ADMINISTRATIVE PROCESSING OF CLAIMS, POWERS AND DUTIES OF THE ADMINISTRATIVE LAW JUDGE

#### D. EVALUATION AND WEIGHING OF EVIDENCE

##### 12. PREJUDICE OF WITNESSES

In view of the administrative law judge's broad discretion in considering the evidence, see *Peabody Coal Co. v. Benefits Review Board*, 560 F.2d 797 (7th Cir. 1977), the administrative law judge may assign less weight to testimony or other opinion evidence where there are indications of witness prejudice.

#### CASE LISTINGS

[adjudicator may accord less weight to medical report based on possible prejudice where physician is related or otherwise closely allied with proffering party's attorney] *Spradlin v. Island Creek Coal Co.*, 6 BLR 1-716 (1984).

[adjudicator need not give less weight to medical opinion prepared at employer's request for purpose of litigation] *Stanford v. Valley Camp Coal Co.*, 7 BLR 1-906 (1985); *Chancey v. Consolidation Coal Co.*, 7 BLR 1-240 (1984).

#### DIGESTS

The Sixth Circuit stated that adverse rulings in the proceedings are not by themselves sufficient to show bias on the part of the administrative law judge. *Orange v. Island Creek Coal Co.*, 786 F.2d 724, 8 BLR 2-192 (6th Cir. 1986).

Based on their holdings in *Stanford v. Director, OWCP*, 7 BLR 1-906 (1985); *Brown v. Director, OWCP*, 7 BLR 1-730 (1985); and *Chancey v. Consolidation Coal Co.*, 7 BLR 1-240 (1984), the Board held that unless the opinions of the physicians obtained by the parties are properly held to be biased, based on evidence in the record, the opinions of the Department of Labor physicians should not be accorded greater weight due to their impartiality, and absent a foundation in the record for a finding that the Department of Labor's expert is independent, the administrative law judge may not

accord his opinion greater weight on that basis alone. ***Melnick v. Consolidation Coal Co.***, 16 BLR 1-31 (1991)(en banc).

The identity of a party who hires a medical expert does not, by itself, demonstrate partiality or partisanship on the part of the physician. ***Urgolites v. Bethenergy Mines, Inc.***, 17 BLR 1-20 (1992).

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